

## Town of Clifton Park Zoning Board of Appeals

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CLIFTON PARK  
TOWN CLERK

## Zoning Board of Appeals

December 6<sup>th</sup>, 2022

**Present:** Chairman Michael Dudick, Jerry Cifor, Christopher Lemire, Mario Fantini, John Klimes, Lisa McCoy

**Absent:** Randy Gifford, Scott Styles (alternate)

**Also Present:** Scott Reese, Zoning Administrator  
Paula Cooper, Secretary  
Neil Weiner Esq., Attorney

The meeting was called to order at 7:00 p.m.

All stood for the Pledge of Allegiance. Roll call was taken.

Mr. Dudick told the applicant that per Town Code that the applicant would need 4 out of 7 of the Board members to vote in favor of the application to pass. He let the applicant know that there are 6 voting members of the Board here tonight, so that 6 members need to vote in favor tonight to grant the variances. He asked the applicant if they would like to come back at a later date or if they would like to proceed knowing the Board tonight needs to vote in favor of the application with at least 4 votes.

The applicants stated they would like to continue tonight knowing 4 of 6 votes need to be in favor of the application tonight.

**Old Business:**

*An application from John Pardo has proposed installing a 20'x60' car port at 14 Sleepy Hollow Drive. Applicant requests Area Variance from Chapter 208-12 Accessory buildings- no detached barn, garage or other accessory building shall be placed closer to a front property line than 80 feet or closer. Proposed front yard setback for the garage is 60 feet – variance requested = 20 feet. Property is located at 14 Sleepy Hollow Drive, Clifton Park, NY 12065 (Permit #81344)*

**Applicant:**

John Pardo – Owner – Mr. Pardo stated that he would like to put a garage in the back of his driveway. He stated that it would be behind his home and would be used for overflow. He stated that he has spoken to his neighbors and has sent letters as required. Mr. Pardo stated that he has been at this address for 18-19 years and he is just looking to keep his property looking clean and his boat out of view.

**Public:**

No public comment.

Mr. Dudick moved, second by Mr. Cifor to close the public hearing at 7:16 p.m.

**Board:**

Mr. Klimes asked how far the back of the car port would be from the rear property line. Mr. Reese stated it would be about 100'. Mr. Klimes asked why the applicant cannot push back the garage and not need a variance. Mr. Pardo stated that there are trees to the rear of where he would like to put the port and he would also like it accessible from the driveway without having to add more driveways. Mr. Klimes asked how far the existing shed is from the proposal. Mr. Pardo stated that it is about 20' but there are trees there. Mr. Pardo stated that the car port is mainly for the boat and the port would be on the existing concrete pad and there is a retaining wall behind the proposal as well.

Mr. Dudick asked if a retaining wall would be needed for this application. Mr. Pardo stated there would not be but there is already a retaining wall in place.

Mr. Lemire asked the applicant to describe pool access. Mr. Pardo stated where it would be accessible from and where it is now. Mr. Lemire asked if the side setback was within code. Mr. Reese stated it is.

Mr. Fantini stated that the application is for a use variance but the applicant is seeking an area variance. Mr. Cifor stated that an area variance is less intense than a use so this should be fine for tonight. Mr. Weiner stated Mr. Cifor was correct and there is no need to relist the application.

Mr. Reese stated that this is a Type II action and that no further SEQRA is needed. He stated that this is not reviewed by the Saratoga County Zoning Board, and that he has no further comments on the application.

Mr. Klimes moved, second by Mr. Cifor, to approve the variance as requested. The property is located at 14 Sleepy Hollow Drive, Clifton Park, NY 12065.

Mr. Klimes read the Area Variance Criteria, Mr. Klimes answered in favor to all 5 criteria.

The Secretary called the Vote:

**Ayes: 6**

**Noes: 0**

**New Business:**

*An application from **Stephen G Levy** requests a change to an existing use variance granted in 1984. The use variance was to allow a three-family dwelling rather than a two-family dwelling. Variance stipulated dwelling must be owner occupied. Applicant requests stipulation be removed. Property is located at 489 Grooms Road, Clifton Park, NY 12065 (Permit #81345).*

**Applicant:**

Stephen Levy – representing owner – Mr. Levy stated that the property was given permission in 1984 for a triplex with owner occupancy. He stated that the property was in a family until 2020 when they purchased it. He stated that they are now asking for “owner occupied” to be removed as an LLC now owns the property. He stated that this worked in 1984 as it was owner occupied but he does not feel it should be carried on. He stated that other residents feel this should not be done as they are in objection to the second driveway from an adjacent road but he would be happy to remove the driveway from the side road but Saratoga County would like it kept.

**Public:**

Mr. Dudick stated that the applicant would like to table the application until the last meeting but he would still take comments from the public tonight and the public hearing would not be closed tonight. He stated that no vote would take place tonight either.

Roojier Blom – Mr. Blom stated that he owns 17 Primer Court next to this application. He stated that neighbors have signed a petition and hope that the Board reads it. He stated that he feels this will be obtrusive with 2 rentals adjacent to a home. He stated that the change in traffic patterns would affect the neighbors and that renovations have been started and since then they have already seen a change in traffic as well as an unsolicited driveway.

Margret Frody – 12 Primer Court – Ms. Frody asked if this is being tabled if no other documents can be submitted. Mr. Dudick stated that the applicant can provide proof of financial burden or other documents and it would be available for the public to review.

Richard D'Aleo – 6 Evergreen Ave. – Mr. D'Aleo stated that he has lived at the address for 50 years. He stated that he personally went around with the petition and got 30 signatures and no resident's spoke of wanting this and they do not want an absent landlord.

Lance Havalchak – Mr. Havalchak stated that he was not aware of commercial rezoning. Mr. Dudick stated that it would not but if the building were to be commercial the requirements would be more detailed.

Sean Cooleen – Primer Court - Mr. Cooleen asked if there was oversight of the quantity of people that can live on the site. Mr. Reese stated that during building permit issuing there is a number given to how many. He stated that after that they will check on occupancy if an unsafe report is made. Mr. Weiner stated that a homeowner can have as many children as they like and they can reside in their home. Mr. Cooleen stated he has concerns about the potential for a large number of people residing in one home here. Ms. McCoy asked if this becomes commercial if the number of occupants could be restricted. Mr. Reese stated he is unsure but code states the definition of family.

Steve Frody – Primer Court – Mr. Frody stated that he lives close to the site and he can see the construction. He stated that he has not seen up to tonight that there is anyone living on the property for the last 2 years. He stated that he has not seen any people, cars or lights. Mr. Frody asked if the Primer driveway were to remain if they would need approval from the Town. Mr. Reese state that they would have to apply for a permit with the Highway Department.

**Board:**

Mr. Weiner asked how many members are in the LLC and if they are all family. Mr. Levy stated there are 4 members and they are not family.

Mr. Cifor asked if the managing members are all equal, Mr. Levy stated he did not know.

Mr. Lemire stated that there was a potential sale earlier in the year went through. Mr. Levy stated it did not due to this stipulation in February 2022.

Mr. Dudick asked how long Mr. Levy had the property on the market. Mr. Levy stated that he does not have that information, but even a short period of time would make this a burden. Mr. Dudick asked if it was relisted when the sale did not go through. Mr. Levy stated it did not, that they chose to come before the ZBA.

Ms. McCoy stated that the property was purchased in August of 2021, December 18<sup>th</sup> of 2021 it was listed and then taken off January 5<sup>th</sup> of 2022. Mr. Dudick stated that the buyer was found in less than a month and not relisted, but is claiming this is a hardship. Ms. McCoy asked if the property is being occupied now. Mr. Levy stated it is not

Mr. Fantini stated that this reflects the character of the neighborhood. He stated that that if owner occupied, the property would be kept in better shape so he feels this request does not fit and would look different.

Mr. Reese stated that the stipulation to this variance is that there is 2 rental units and one owner occupied unit. He stated that in 1982 the owner requested a duplex and then it was found that there were 3 units total, not 2 and then the use was granted with owner occupancy. He stated that in 2015 the owner came before the Board to have this stipulation removed and the application was withdrawn.

Mr. Lemire asked who asked for the condition to be removed in 2015. Mr. Reese stated it was the owner at the time. Mr. Lemire asked if the applicant went before the Board before withdrawing. Mr. Reese stated he believes so. Mr. Lemire stated that there is no component for financial hardship when the property was listed for only 18 days. Mr. Lemire asked if Saratoga County approved the drive on Primer Court. Mr. Reese stated that they are approved to use it for construction. Mr. Lemire asked if the applicant were to make the 3 units into 2 units if the conditions would still stand. Mr. Reese stated that they are working on going back to 2 families and that there is a SUP for it with no variances.

Mr. Cifor stated that this is a self-created condition as the current applicant bought the property knowing the restriction. Mr. Levy stated that this can be self-created but not preclusive. Mr. Cifor stated that this is different as this is a use variance not an area variance and more restrictive.

Mr. Klimes stated that he feels that one fallen sale is not a hardship.

Mr. Dudick stated that that sale failed in February 2022, he asked why the property has not been listed between then and now while asking for a variance. Mr. Levy stated that they made a reasonable assumption that this is not a favorable condition to try and find a buyer.

Mr. Weiner asked if the current owner was aware of the restriction when they purchased the property. Mr. Levy stated he does not know as he was not involved in the purchase of the property.

Ms. McCoy asked why the current owner is renovating the buildings when they have concerns with being able to sell the property or rent it.

Mr. Reese stated that neighbors within 500' have been notified and Saratoga County found no impacts but commented on the driveway access from Primer Court. He stated that this is an R-1 zone and this is an unlisted action with the EAF provided and showing no environmental impacts. He stated that the Town received a petition with 62 signatures signed by neighbors. He stated that the buildings could be changed to commercial but the codes would change as well, such as sprinklers and fire wall requirements. Mr. Reese stated there is letter dating August 2022 that there is a resident and owner on the property. Mr. Weiner asked if there is someone living there now. Mr. Levy stated according to the letter there is.

Mr. Weiner asked the applicant if he would like to table the application until the next meeting so that he can speak to the LLC and see what they would like to do. Mr. Levy stated he would, but he would not be able to make it to the next meeting and asked if they could come back in

February. Mr. Weiner stated that the meeting would be held February 7<sup>th</sup>, 2023. Mr. Levy stated he would be back in February.

The chairman made a motion to approve the minutes from the November 15<sup>th</sup>, 2022 meeting. All who were present at the November 15<sup>th</sup>, 2022 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick thanked Mr. Cifor for his service to the Zoning Board and stated he has been on the Board for 10 years and this is his last. Mr. Cifor thanked the Board and Mr. Dudick.

Mr. Cifor, made a motion to adjourn the meeting, Mr. Lemire second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:32 p.m.

The next scheduled ZBA meeting will be held on January 3<sup>rd</sup>, 2023.

Respectfully submitted,

*Paula Cooper*

Paula Cooper

Secretary, Zoning Board of Appeals